

# Resources for Challenging Times

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# What has happened

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- Coronavirus Aid, Relief, and Economic Security (CARES) Act passed on March 27.
- Indiana Stay at Home Order effective March 24
- Families First Coronavirus Response Act (FFCRA)
  - Effective April 1 – December 31, 2020
  - Focused on paid sick leave and FMLA for organizations under 500, with tax credits

Additional Resources:

[Overview of FFCRA](#)

[Barnes & Thornburg: Families First Guidance – An Employer Q&A](#)

[Indiana Stay at Home Order](#), [Indiana Stay at Home FAQ](#)

# Emergency Paid Sick Leave and FMLA

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# Emergency Paid Sick Leave and FMLA

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- Generally required for organizations under 500
- Tax credits for emergency paid sick leave (80 hours) and expanded FMLA
- Further DOL guidance, posters, FAQs have been issued in the last week
- Find FAQs, key provisions and a recorded webinar [here](#) (FirstPerson -under regulatory) and [here](#) (Barnes & Thornburg)

# Staffing Reduction Options

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# Staffing Reduction Options – Furloughs, Layoffs, Pay Cuts

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- **Furlough** – mandatory, temporary, unpaid leave
  - Reduce labor costs without adding new costs like severance and outplacement
  - Employees would return when business improves, reducing recruiting and training costs
  - Still active employees **and** they are eligible for unemployment

Consult an employment attorney for specific guidance based on your situation, including WARN act requirements.

# Staffing Reduction Options – Furloughs, Layoffs, Pay Cuts

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- **Layoff** – full separation from the company
  - Must carefully select the employees to layoff
    - Check collective bargaining agreements or other existing policies and practices (such as last in, first out)
    - Be consistent – based on the role and staffing levels, not the individual except:
      - Generally can use performance as a basis but it should be based on objective documented reviews or performance discipline (e.g., performance ratings)

Consult an employment attorney for specific guidance based on your situation, including WARN act requirements.

# Staffing Reduction Options – Furloughs, Layoffs, Pay Cuts

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- Pay cuts – fewer hours, less pay
  - Watch out – exempt employees – there are specific considerations based on the FLSA

Consult an employment attorney for specific guidance based on your situation, including WARN act requirements.



# Benefits Impacts – Furloughs, Layoffs, Pay Cuts

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- If an employee's hours are reduced, are they allowed to stay on benefits?
  - If an employer has 50 or more EEs or otherwise subject to the ACA's employer mandate, they are allowed to stay on benefits through the end of the plan year (the ACA calls this the stability period) even if hours are reduced. An employer can allow an EE to drop coverage but they cannot require it. This is for medical only, other benefits are not subject to the ACA's rules.
- Can EEs stay on benefits if they are furloughed?
  - Most carriers are allowing employees to stay on benefits through the end of May if they are temporarily furloughed. You will need to check with your carrier to confirm what allowances they are providing.

Consult an employment attorney for specific guidance based on your situation, including WARN act requirements.

# Unemployment Benefits

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# Unemployment Expansion

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- Unemployment is administered through each state.
- The CARES Act adds benefits to the current state programs.
- Unemployment eligibility is determined by the state, not the federal government and not the employer.
- If an employee feels they are eligible, they should apply right away for benefits – [in.gov/dwd/2362.htm](https://www.in.gov/dwd/2362.htm)
- Application is all online. Employees need their most recent paystub.
- Benefits typically received within three weeks if there are no issues with the initial application.

# Unemployment Expansion – Amount of Pay

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- Indiana state benefit
  - Generally 47% of wages to a maximum weekly benefit of \$390
  - Specifics are in the [claimant handbook](#)
- Additional federal benefit
  - The CARES Act provides an additional \$600/week payment to each UI or Pandemic Unemployment Assistance recipient through the end of July 2020.

*Note: States need to adopt the federal provision for the unemployment benefit*

# Unemployment Expansion – Benefit Length

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- Indiana state benefit
  - Generally 26 weeks
  - Specifics are in the [claimant handbook](#)
- Additional federal benefit
  - The CARES Act provides up to an additional 13 weeks of unemployment to help those who remain unemployed after weeks of state unemployment are no longer available.

# Unemployment Expansion – Eligibility

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- Who is eligible?
  - Employees who are terminated (layoff)
    - Employers can still contest claims if terminated for cause
  - Furloughed/temporary layoff employees
    - Employees must stay in contact with employer and be available to work when called back by your employer.
  - Employees who are reduced to part-time status (pro-rated benefit)
  - Employees who cannot work due to caring for their child while their school/daycare is closed due to COVID-19 (if not otherwise receiving sick pay or leave pay)

# Unemployment Expansion – Eligibility

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- Who is eligible?
  - New individuals are covered under the CARES Act who aren't traditionally eligible
    - Self-employed individuals
    - Independent contractors
    - Those with limited work history
    - Generally those who are unable to work as a result of the COVID-19 public health emergency

# Unemployment Expansion – Eligibility

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- Where it's unclear
  - Employees who decide to stay home because of COVID-19 with no directive from a medical professional or employer to do so
    - DWD says “in most cases, no. However, the facts of each circumstance are important. You can file and DWD will evaluate your claim.”



# Other Programs and Resources

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# 2020 Recovery Rebates for Individuals

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- \$1200 - individual making up to \$75,000
- \$2400 - couple making up to \$150,000
- \$500 additional per qualifying child under age 17
- Individuals/couples making between \$75,000-99,000 and \$150,000-198,000 would receive a reduced check.
  - Anything above will not receive
- Direct deposited based on 2018 or 2019 tax return information

Income is based on Adjusted Gross Income

Source: [Katz, Sapper & Miller Article CARES Act Provides More Tax Relief](#)

# Individual Retirement Funds

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- Eliminates 10% early withdrawal penalty for qualified retirement account distributions up to \$100,000
  - For coronavirus-related purposes
  - Between January 1 – December 31, 2020
- No Required Minimum Distribution requirements in 2020 for IRAs and certain defined contributions plans

# “Disaster Payments” to Employees

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- Employers can provide employees with tax-free payments in different ways
  - Employee Emergency Financial Assistance Funds tailored to individual employee needs and hardships
  - Certain expenses related to COVID-19 that are “reasonable and necessary”
    - Such as child care due to school closings, work-from-home expenses, over-the-counter medications and home disinfectant supplies

Additional Resources:

[National Law Review Article on Tax-Favored Financial Assistance to Employees](#)

[SHRM Article on Disaster Payments](#)

# Federal Student Loan Repayment Tax Relief

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- Employers can provide federal student loan repayment benefits to employees on a tax-free basis.
  - Up to \$5,250
  - Employer pays on an employee's behalf
  - Excluded from the employee's income
  - Deductible by employer as ordinary business expense
  - CARES date of enactment – December 31, 2020
- Federal student loan payments are deferred for 6 months, without penalty
  - Through September 30, 2020

# Resources

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- [Barnes & Thornburg COVID-19 Resources](#)
- [FirstPerson Resource Hub](#)
- Unemployment Resources
  - [Indiana Website to File an Unemployment Claim](#)
  - [Indiana Dept of Workforce Development EMPLOYER FAQ](#)
  - [Indiana Dept of Workforce Development EMPLOYEE FAQ](#)
  - [Indiana Department of Workforce Development UI Claimant Handbook](#)

## Contact us

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